

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

W.P(C).No. 35535 of 2007(E)

PETITIONER:

**V.J.SEBASTIAN, PRESIDENT,
LIMITED STOP STAGE CARRIAGE, OPERATORS
ASSOCIATION, KOZHIKODE.**

BY ADV. SRI.GEORGE MECHERIL

RESPONDENTS:

- 1. THE REGIONAL TRANSPORT OFFICER,
KANNUR.**
- 2. THE EXECUTIVE ENGINEER,
P.W.D. ROADS DIVISION, KANNUR.**
- 3. THE STATE OF KERALA, REPRESENTED
BY ITS SECRETARY TO GOVERNMENT,
P.W.D., SECRETARIAT, THIRUVANANTHAPURAM.**
- 4. C.H.PAVITHRAN, P.W.D. CONTRACTOR,
PALAKKUNNU, (PO) BAKEL, KASARGOD DISTRICT.**

BY GOVT. PLEADER, SRI. BENJAMIN PAUL

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 17/12/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

ANTONY DOMINIC, J.

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W.P.(C) No. 35535 OF 2007 – E
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Dated this the 17th December, 2007

J U D G M E N T

Petitioner is a stage carriage operator and is also the President of the Kerala State Limited Stop Stage Carriage Operators Association. Petitioner is operating in the route Kannur–Thalassery Kozhikode–Thrissur and according to him his route is fully covered through the National Highway. It is stated that consequent on the closure of Moidu Bridge in between Kannur–Thalassery, in the meeting convened by the authorities on 25-6-2007, it was decided that the stage carriage operators passing through Moidu Bridge will take alternate route which is indicated in Ext. P5.

2. The present complaint of the petitioner is that in the alternate route which is fixed in Ext. P5 there are two places where toll is collected, that is, Mamakunnu Bridge and Parappuram Bridge. Petitioner would submit that in view of this an additional liability is caused to him and other operators. It is his contention that at the

time when contract was awarded to the 4th respondent this additional collection was not envisaged and as it is not beneficial to the stage carriage operators like him or the state he should be absolved from payment of toll at the aforesaid two bridges. The stand of the Stage Government is that so long as the petitioner is taking the alternate route as indicated in Ext. P5, it is the petitioner's liability to pay the toll.

3. Having heard the counsel for the petitioner and also the learned Govt. Pleader I confess my inability to accept the contention now raised by the petitioner. It may be true that this additional collection was not envisaged by the authorities at the time when the tender was fixed in favour of the 4th respondent. It may also be true that this is a windfall for the 4th respondent and the State is not the beneficiary. However, that does not absolve the stage carriage operators or others, who make use of the bridges so long as the right to collect toll is in favour of the 4th respondent in terms of the contract that is awarded in his favour. Therefore, if the petitioner is making use of those bridges it is his liability to pay the toll that is due.

4. Petitioner is not in a position to establish his claim for exclusion of this liability by referring to either the contract between the 4th respondent and the State or any statutory provision. In such circumstances, I uphold the entitlement of the 4th respondent to collect the toll.

Writ petition fails and is dismissed.

ANTONY DOMINIC
JUDGE

jan/-